

City of Willoughby Hills  
Planning and Zoning Commission  
&  
Architectural Board of Review

MEETING MINUTES  
MARCH 16, 2017

**CALL TO ORDER: 7:00 P.M.**

**Roll Call:**

**Present:** Chairman Christopher Smith, Vice Chairman John Lillich, Mayor Robert Weger, Council Representative Christopher Hallum, Jonathan Irvine, Michael Tyler, and Michael Kline.

**Clerk:** Gloria Majeski, Clerk Pro-tem

**Also Present:** Building Commissioner Fred Wyss  
BZA Representative Frank Cihula  
City Engineer Pietro Di Franco  
Law Director Tom Lobe

**MOTION:**

Motion to televise tonight's meeting made by Vice Chairman Lillich, seconded by Mayor Weger.

VOTE: All AYES/No NAYS. (7-0) Motion Passes.

Tonight's meeting will be televised on WHTV.

At this point, the switch to televise the meeting on WHTV was turned on by the Clerk.

**MOTION:**

Motion to amend agenda to hold Public Portion at end of Planning Commission portion of the meeting made by Vice Chairman Lillich, seconded by Jonathan Irvine.

VOTE: All AYES/No NAYS. (7-0) Motion Passes.

Agenda is amended to hold Public Portion at the end of Planning Commission portion of the meeting.

**Disposition of the Minutes Meeting of March 2, 2017**

**MOTION:**

Motion made by Vice Chairman Lillich, seconded by Jonathan Irvine to approve the meeting minutes of March 2, 2017.

VOTE: All AYES/No NAYS. (7-0) Motion Passes.

Meeting minutes of March 2, 2017, are approved as presented.

**ARCHITECTURAL BOARD OF REVIEW**

**Public Portion**

Opened at 7:05 p.m.

No one spoke in Public Portion.

Public Portion was closed at 7:06 p.m.

- 1) Don and Andrea Evans – 29301 Chardon Road – New House project –  
PPN: 31-A-006-0-00-018-0  
Plans stamped/received in Building Department 3/1/17  
Plans stamped/reviewed by Building Department 3/1/17  
Plans received by City Engineer 3/1/17  
Plan stamped/reviewed by City Engineer 3/6/17

A plan packet of this project was provided to each of the Commission members prior to the discussion by the presenters.

Presented by: Mr. Don Evans (homeowner) and Mr. Joseph Marra (M.J. Builders, Inc.)  
Presented samples of stone for foundation (Oakwood), Shingles (Driftwood),  
Shake shingles for front (Classics, Alsides, Color: Clay), Siding, Drywall (front),  
and stucco with trim around windows.

**Building Commissioner Comments:**

Building Commissioner Wyss indicated that the initial submission by the resident and builder was without trim, but was amended to include the trim. It also further defined the elevation.

**Board Comments:**

Chairman Smith described it as a beautiful ranch, nicely detailed with more stone than is required.

Vice Chairman Lillich inquired about the elevation and foundation, which is intended to be painted or stone per Mr. Marra.

**MOTION:**

Motion made by Vice Chairman Lillich, seconded by Council Representative Hallum to approve this project as submitted.

VOTE: All AYES/No NAYS. (7-0) Motion passes.

The submitted plans for a house located at 29301 Chardon Rd., PPN: 31-A-006-0-018-0 have been approved as submitted.

- 2) Marty Burkhardt – 2829 Fowler Drive – New 24’X24’ Detached Garage –  
PPN: 31-A-006-H-000-035-0  
Plans received/stamped/reviewed by Building Department 3/3/17

A plan packet of this project was provided to each of the Commission members prior to the discussion by the presenter.

Presented by: Mr. Steven Manzone, Godfather Garages, LLC

Mr. Manzone indicated that the 24’X24’ accessory building is 25’ away from the house, with colors matching the house (almond), as well as roof to match the house.

**Board Comments:**

Vice Chairman Lillich asked about the colors matching the existing home and Mr. Manzone confirmed the match.

Council Representative Hallum inquired about the height of the garage door. Mr. Manzone confirmed the garage door to be the standard 8’ high, 16’ width.

**MOTION:**

Motion made by Mayor Weger, seconded by Council Representative Hallum to approve this project as submitted.

VOTE: All AYES/No NAYS. (7-0) Motion passes.

The submitted plans for 24’X24’ detached garage, PPN: 31-A-006-H-00-035-0 have been approved as submitted.

- 3) Eric Sweigert, 29951 Euclid Chardon Road –Swimming Pool and Fence –  
PPN: 31-A-006-C-01-001-0  
Plans received in Building Department 3/6/17  
Plans stamped/reviewed by Building Department 3/9/17

A plan packet of this project was provided to each of the Commission members prior to the discussion by the presenter.

Presented by: Mr. Eric Sweigert (homeowner)

Mr. Sweigert indicated that this plan is for a 20'X40' pool, with the shallow end depth being 3' 4" and the deep end being 6'. The fencing is 1500 to 1800 sq. ft. around the pool. The pump equipment will be located at the nook of the house.

**Building Commissioner Comments:**

Building Commissioner Wyss indicated that the original plan submission was sized differently and was closer to the neighbor. Mr. Sweigert has resubmitted the plan to alleviate the neighbor proximity concerns.

**Board Comments:**

Vice Chairman Lillich inquired about landscaping around the pool area.

Mr. Sweigert responded that his plan was to put pine trees around the pool area on the hillside

.

**MOTION:**

Motion made by Michael Tyler, seconded by Vice Chairman John Lillich.

VOTE: All AYES/No NAYS. (7-0) Motion Passes.

The submitted plans for a swimming pool and fence at 29951 Euclid Chardon Road, PPN: 31-A-006-C-01-001-0 have been approved as submitted.

- 4) Mario Fazio's – 34400 Chardon Road – Rear Addition and New Roof over Old & New Building – PPN: 31-A-016-D-00-036-0  
Plans stamped/reviewed by Building Department 3/9/17

A plan packet of this project was provided to each of the Commission members prior to the discussion by the presenters.

Presented by: Mr. Frank and Mrs. Lisa (Fazio) Grk (business owners)

Frank and Lisa Grk described the project as a 16'X25' addition, which will accommodate a walk-in freezer/cooler. It will also include a complete roof tear off and replacement. They showed a siding sample, which is identical to their existing siding and indicated it will be continuous around the building. They showed photos of the rear elevation.

**Building Commissioner Comments:**

Building Commissioner Wyss indicated that the renovation will affect three parking

spaces in the rear of the building, currently not used much, but suggested that they could still add side parking spaces in the rear addition or relocate their delivery vehicles, perhaps with the permission of the adjacent property owners permission, per Lisa Grk.

**Board Comments:**

Vice Chairman Lillich felt that one would probably not even notice this (the renovation) is happening.

**MOTION:**

Motion made by Council Representative Hallum, seconded by Jonathan Irvine.

VOTE: All AYES/No NAYS. (7-0) Motion Passes.

The submitted plans for a Rear Addition and New Roof over Old & New Building at 34400 Chardon Road – PPN: 31-A-016-D-00-036-0, have been approved as submitted.

The Architectural Board of Review portion of this meeting was closed at 7:20 p.m.

**PLANNING COMMISSION**

Building Commissioner Wyss distributed the following documents to the Commission:

- Letter dated 2/23/17 from resident Edith Metz, 2362 River's Edge
- Petition Opposing Grange Cell Tower Project dated 3/13/17 from Sharon L. Sammon, 2367 River's Edge
- Letter dated 3/10/17 from resident Mary Moeller, 37265 Beech Hills Drive
- Email dated 3/10/17 from Gloria Majeski documenting call from resident Brigitte Kirschnick, 2527 Mapleview Lane
- Email dated 3/11/17 from resident Keith Brandt, 2376 River's Edge Drive
- List of questions from "Neighbors of Historic Maple Grove Grange) date 3/16/17
- Letter from Attorney Sheldon Berns dated 3/16/17 on behalf of Thomas Marsh, 36520 Maple Grove Road
- TowerCo Tower Project Timeline prepared by Building Commissioner Wyss
- Copy of Chapter 1161 of the WH Zoning Code (WH Codified Ordinances)
- Copy of Chapter 1111 of the WH Zoning Code (WH Codified Ordinances)
- Email dated 3/13/17 from Keith Brandt, 2376 River's Edge Drive
- Email dated 2/24/17 from Building Commissioner Wyss to Thomas Marsh
- Email dated 3/8/17 from Building Commissioner Wyss to Thomas Marsh
- Email dated 3/13/17 (10:52 a.m.) from Thomas Marsh to PC-ABR Clerk Katie Lloyd
- Email dated 3/13/17 (11:51 a.m.) from Thomas Marsh to PC-ABR Clerk Katie Lloyd
- Email dated 3/13/17 (12:03 p.m.) from Thomas Marsh to PC-ABR Clerk Katie Lloyd

- List of labels used for Grange cell tower notification letter as provided by Building Commissioner Wyss

1) City of Willoughby Hills

Agent/Contractor: STRATEGIS, LLC (Agent for TowerCo.)

2454 River Road – Work Session Continuance for Construction of Telecommunciation Tower – PPN: 31-A-012-E-00-018-0

Plans received in Building Department 3/3/17

Plans received by Building Department 3/8/17

Plans received by City Engineer 3/3/17

Plans stamped/reviewed by City Engineer 3/10/17

Presented by: Strategis, LLC & TowerCo. Representatives:

Mr. Chris Galloway, Strategis, LLC, 2530 Superior Avenue, #303, Cleveland, OH 44114

Mr. Jesse Styles, Strategis, LLC, 2530 Superior Avenue, #303, Cleveland, OH 44114

Mr. Jason Woodward, TowerCo, 5000 Valleystone Drive, Cary, NC 27519

Law Director Lobe indicated that TowerCo had provided a Court Reporter, Ms. Mindy Melton, of Melton Court Reporting, 11668 Girdled Road, Painesville, OH, 44077 (440-946-1350, [meltonreporting@aol.com](mailto:meltonreporting@aol.com)). He requested that all speakers identify themselves so the court reporter could include them in her reporting. TowerCo. has requested records of the proceedings from the court reporter.

Law Director Lobe indicated that he was present in order to assist the Planning Commission in running the meeting and would ensure that everyone would get an opportunity to speak. He will not tell members how to vote. Mr. Lobe said that he would start the meeting by giving TowerCo. an opportunity to request an extension (continuance) to reply and rebuff the report from City Engineer Pete DiFranco.

Jesse Styles indicated that he was present to request a continuance based on the fact that he (representing Strategis, LLC.) still can provide a lot of information. He understands that sensitive issues had been raised by the public and he wants the public to get statements on record.

City Engineer DiFranco based his recommendation to deny the continuance on the following:

- TowerCo failed to provide information within required timeframe
- It had been nearly 6 months since application on 9/21/16, without compliance.

- Public Hearing was held on 10/20/16, then three months passed before first resubmission on 1/17/17 for preliminary approval
- At the 2/2/17 meeting preliminary approval was postponed due to noncompliance of the required items and 3/2/17 was the new date assigned to resubmit to Planning Commission. That would give the Commission adequate time to review all aspects of the resubmitted information prior to the 3/15/17 Planning Commission meeting. This is required by 1111.12 of the Building Code of the Willoughby Hills Codified Ordinances.
- On 3/3/17 TowerCo's submission was received, late, with attachments missing and then on 3/8/17 via email, the information was provided. The delays and lack of responsiveness shown by the applicant warrant no additional time on this application, in the Engineer's opinion.
- In addition, there are several variances that were required and a variance requires the applicant to submit a written application. We have not yet received that.
- 1117.09 of Willoughby Hills Codified Ordinances provides for 10 factors to be considered for all variances and, in his opinion, none of the 10 factors were warranted.
- For over 6 months, 3 sets of written comments were requested by him, beginning 9/27/16, and some of those same comments have still not been addressed.
- During the 6 months, there was no response to Mr. DiFranco's requests.
- Mr. DiFranco has concerns related to the safety, health and general welfare of residents, which is one of the prime purposes of Chapter 1161 (requirements for telecommunication facilities), which indicates that there must be a 200' buffer between the new facility and the right of way. Since this project falls well short of that, he cannot see that he would ever change his mind on this or that the continuance should be granted as the buffer cannot be changed. He does not see how a continuance could be beneficial.

Mr. Lobe then instructed TowerCo to address City Engineer DiFranco's comments.

Jessie Styles indicated that TowerCo representatives were routinely working with the staff (Mr. Lobe and Mr. Wyss extensively and other members of the staff). There had been numerous communications and they had acted in good faith. He said that the items Mr. DiFranco was referring to are items that are dealt with at the "building permit stage" and that it was premature to address issues in this part of the process. He said they would like to go through those ten items and discuss what those ten items are and where they are, in an attempt to address them here at this meeting or at another time, if necessary.

Mr. Styles then asked Law Director Lobe if they could be granted a brief recess to discuss their rebuttal privately. Law Director Lobe instructed the Planning Commission to vote to take a three-minute recess.

**MOTION:**

Mayor Weger made a motion, seconded by Vice Chairman Lillich to take a three-minute recess.

VOTE: All AYES; No NAYS. (7-0) Motion Passes.

A three-minute recess was granted.

**MOTION:**

Vice Chairman Lillich made a motion, seconded by Michael Tyler to resume the meeting.

VOTE: All AYES; No NAYS. (7-0) Motion Passes.

The meeting was resumed at 7:36 p.m.

At this point of the meeting, Mr. Dave Hockey, an additional TowerCo representative, joined the other three individuals to address the Commission.

After returning from the short recess, Jesse Styles said that they will be happy to address all items of the continuance. Chris Galloway added that he would like to address City Engineer DiFranco's report and present complete answers at a later date.

Law Director Lobe asked the Board to address questions to TowerCo at this time.

Mayor Weger inquired as to why it took so long (from 9/21/16 until now) for TowerCo to present plans and answer questions. It was his understanding that they wanted to begin the project in the 2016 construction season.

Jesse Styles responded that the level of detail prohibited them from getting engineering done (i.e. change from conventional plan to stealth tree tower) and survey work as planned. There were many items that took time that are not done on a standard site.

Mayor Weger responded that he thought five months seems excessive.

Chris Galloway added that when they made application, there were questions from the Grange caretakers, the public, the Board and other individuals. They spent a lot of time fielding questions regarding the tower, antennnas and communications in general with Administration, and addressed other concerns such as the lease holding landlord. He felt they proceeded at a judicious pace to please the city with the site design, as well as the tower capacity and other items that were brought up. In summary, they wanted the final product to be satisfactory to the city.



Chairman Smith asked about the 200' setback to the right of way. How did they intend to address that? Also, the first step to do that would have been to apply for a variance, and a variance still has not been applied for as of this date.

Chris Galloway responded that Council's ordinance confirmed the Grange would be a viable site while they had searched municipal property and decided on the Grange site and West Miller. They had a great deal of conversation as to what could be placed there, etc. There were no co-locator sites nearby but it appeared that the Grange met the zoning code requirements and it was on municipal land, which is also something that seemed to work for TowerCo. The plan would allow for three carriers, the City was aware of the tower location, height of the tower, zoning code and right of way setbacks, as well as the dimensions of the lot itself. It was TowerCo's feeling and understanding that by entering into an agreement unanimously by Administration and Council, to go ahead and say, "yes, this is a good location for a cell tower," there is recognition that TowerCo would not be able to meet the 200' setback requirements because the distance of the lot itself would make it an impossibility. He said they were left with 2 options: 1) To go through a great deal of engineering design to be able to put together a tower that would not impact the extremely unlikely event of collapse and 2) would not impact the right of way, which is what the code is concerned with, even though the 200' is an arbitrary number which is really designed for public safety. He said that TowerCo went through a great deal of expense to develop a tower that would not impact the right of way at that site. He believes TowerCo worked to present another way around the standard of the 200' that the code is trying to accomplish. In summary, in addressing City Engineer DiFranco's concern (#1 on his report), the plan was to put up a tower that won't collapse or impact right of way. TowerCo found a work around for the City's concerns.

Chairman Smith asked why they did not apply for a variance.

Chris Galloway responded that they normally do a conditional use first, then the variance.

Council Representative Hallum indicated that Council may not have been aware of the Planning Commission requirements. They proceeded based on "does this have merit?" and "does it make sense for the City?"

Vice Chairman Lillich said he had concerns about the ROW and zoning clearance with the Grange building itself. He cited a safety concern in the event of a catastrophic collapse.

Jesse Styles cited the durability of the cell tower at City Hall. He believes it is a safe cell site.

Vice Chairman Lillich said he had concerns about the manufactured products and parts from other vendors. Could they offer the same safety assurances?

Jesse Styles responded that they use the same as the utility industry for supply chain for public safety users, all made in the USA, over-engineered to a high quality, safety enhanced by 911 capability and public safety is not hindered.

Chairman Smith then ask City Engineer DiFranco to re-state his opening statement in his memo in which he indicated that no further evidence TowerCo could present would change his mind about denying the continuance.

City Engineer DiFranco reconfirmed his opinion, stating that if the tower fell, it would block the road. He is not certain why a 200' distance was chosen as the buffer in Willoughby Hills' code, but that it is indeed our code and public safety and welfare remains his main concern.

Jesse Styles indicated that the proposed tower would be 147' from the ROW and did not feel it would block the road.

Jason Woodward added that Saber Industries is the manufacturer (as submitted on the drawings), and if it would happen to collapse, it is designed to collapse within a 15' fold up and they have provided this very same tower type in many communities.

City Engineer DiFranco indicated that the proposed tower would be 97' away from Maple Grove Road. The tower would be 140' high. He acknowledged receipt of a letter submitted by TowerCo to address his structural concerns, but was not totally reassured by these, including Saber Industries information provided.

Chris Galloway stated that the continuance should be granted based on the engineering information that had been sent, but maybe not fully digested by the City and in disagreement with their Public Engineer. He felt that a continuance could provide justification and would suggest that the continuance be granted and then they could have a meeting with all parties.

Council Representative Hallum had concerns that three months had passed, then meeting...why?

Chris Galloway responded that the initial hearing generated questions and may or may not be "wanted items." They spend time with the City to fully understand so they would present the best product and a lot of "behind the scenes" work had been done.

Jason Woodward added that geos and soils were completed and as soon as the package was submitted, there seemed to always be one more question or concern. He personally worked with

Mr. Tom Marsh (resident) constantly to provide more information and his concerns about “park property” were entertained.

Chris Galloway said that postponement on 2/2/17, as recommended by the City Engineer, was fine with them and they were happy to hold their information to present at a later date.

Councilman Hallum again questioning the timing, indicated that Council passed the ordinance in June 2016, yet heard nothing until September.

Jason Woodward assured the Commission that their goal is to build the site as soon as possible. They felt the first quarter of 2017 was a reasonable target date, given the federal requirements to fulfill and having to do their due diligence with many other agencies. He did not feel it was fair to expect results in 3 to 4 months, or even up to 8 months. They needed to have the lease in place before they could proceed with such items as running the title or researching a history of the property.

City Engineer DiFranco stated that most, if not all, of his comments have been the same since September and the code checklist has remained unchanged.

Mayor Weger told TowerCo that he felt that the 23 items to address for the Board should have been handled as priority items first, then deal with the residents could have been done after the Board concerns were addressed.

Jesse Styles responded that they try to work with the community and leadership. They work with the stakeholders and leadership first and also work on due diligence. In this instance, the stakeholders’ interest and participation was great and warranted their time and attention to complete.

Vice Chairman Lillich indicated that he is not an engineer, but was anxious to see how TowerCo will be addressing zoning codes.

Law Director Lobe then advised the vote for continuance should proceed as TowerCo had made their case and the Board was able to voice their concerns.

**MOTION:**

Vice Chairman Lillich made a motion to grant a continuance to TowerCo, as requested and Mayor Weger seconded the motion.

**VOTE:**

No AYES/All NAYS; (0-7) MOTION FAILS.

No continuance was granted to TowerCo, as requested.

The meeting continued to allow TowerCo's request for a Preliminary Approval by the Board. Building Commissioner Fred Wyss referenced the following exhibits:

Exhibit 1 – TowerCo's request for preliminary approval

Exhibit 2 - Material distributed at the 10/20/16 hearing

Exhibit 3 – Material, including resident communications (prepared for attorney purposes)

Law Director Lobe instructed TowerCo to proceed with their Preliminary Approval Presentation.

Chris Galloway began the dialogue by thanking the Board for taking this matter for consideration. He referenced the "controlling document", which was the 3/9/17 document from City Engineer DiFranco, along with pages 2, 3 and 4 of recommendations. He indicated that there were a number of items that were addressed with an "x" and then proceeded to go item by item to offer explanation.

Item #1 – Survey sheet address concerns – There was a discrepancy in the physical address of the site, reading "2454 River" on some documents and "2456 River" on others. Mr. Galloway explained that "2456 River" is the certified address for the tower, should it be built, and the Grange building would remain "2454 River."

Item #2 – Mr. Galloway indicated that if the City wants TowerCo to provide "points", it will. He felt that the City should already have those numbers.

Item #5 – Purpose of easement – Mr. Galloway indicated that this was outlined in their plans (see legal description on Survey #2), so they did indeed provide a legal description for access and utilities.

Item #7 - Mr. Galloway explained that the West Miller site would include a propane tank, but not at the Grange site. A backup generator may be needed at West Miller. The plan shows Verizon equipment box with cabinet for backup generator at the Grange site. At the fall meeting, the level of noise that this would produce was discussed and compared to a refrigerator running and it would not be an annoyance to surrounding properties.

Item #9 - The gravel section was provided (page A1/B) – a 50'X50' gravel area with gravel access drive and turnaround, as outlined.

Item #11 – TowerCo has provided Saber Industries tower information, to include the model and how it is engineered. All requested information is documented.

Item #12 – Mr. Galloway indicated that he disagreed with regard to variances. He feels it meets the intent of the code for public safety and won't impede traffic or ROW. He added that he

is experienced as a County Planning Commission member and an elected official who does many plan reviews and respectfully disagrees with the variance decision (referencing existing City Hall cell tower). Aesthetically, TowerCo has gone to additional expense to build a stealth tree tower and provided photos so the public could see that it was aesthetically pleasing with minimal to no impact on surrounding area and would not distract motorists in that area.

Item #14 – Mr. Galloway confirmed that the fence material is wood, with the color being “wood.”

Item #15 – Mr. Galloway spoke of the design of the landscape buffer, indicating that there was not a clear, defined direction from Planning Commission. They had mentioned arborvitae, but had concerns that it would become “deer lettuce” and could potentially present a nuisance, and so he, therefore, left it out, but provided one row (a ring) of arborvitae around the fence, not on the west side where there is a wooded slope that under City code, could not be cleared. TowerCo is willing “to add or subtract to be compliant.”

Item #16 – Mr. Galloway indicated that they planned to “trim trees” to ensure they are not a hazard, but did not plan to remove trees. He referenced “x.” on the plans indicated where existing trees were identified. Again, he stated that they are certainly open to adding to the plans to satisfy the Planning Commission.

Item #19 – Underground power and fiber – Mr. Galloway indicated that natural gas may be a future utility easement for future co-locator vendors, but TowerCo would perform ground radar before any permit would be granted.

Item #23 – Justification for selecting Grange site location – Mr. Galloway offered to address this concern in writing, if necessary. There are currently no towers existing within a 2500’ radius. The RF justification report explains how and why this location is needed. Verizon’s radiofrequency engineer is present and he invited him to join them at the table.

Mr. Jim Svoboda Radiofrequency Engineer from Verizon, 2000 Highland Road, Cleveland, Ohio, introduced himself and said that this location was selected because of location and signal (i.e. interference).

Jason Woodward added that at the last meeting, there was discussion about the feasibility of other carriers and he can offer that AT&T is interested, but no funding now and TMobile may have some interest in the future. Sprint is the fourth most popular carrier and he is unsure what they would have interest in doing, but he confirmed that more than just Verizon has interest in the tower.

Vice Chairman Lillich inquired about “small cells”.

Jim Svoboda described “small cells”, indicating that they do not get as much distance and are mostly used for high traffic areas. They can be lined across the street and they could pop up right in front of a business district, obliterating business fronts and as not as practical for the public in our current landscape.

Vice Chairman Lillich concurred that he was “not in favor” but was rather “just confirming.”

Jesse Styles added that “small cells” still require larger (macro) cells to draw off of.

Jason Woodward added that State Bill (SB331) permits any carrier to construct in the ROW and that small cells are not pinpointed to a specific carrier. One pole has different spectrum scans and one pole may not do the job for all carriers. The larger cell tower will have an impact on small cells entering the community.

Building Commissioner Wyss asked how many co-locators are on a small cell on a 50’ pole.

Jim Svoboda said that currently there is one carrier per pole.

Chris Galloway proceeded to address some of the questions from residents, reading from the document provided to him by Building Commissioner Wyss. The first question was concerning the possibility of an alternate site that Mayor Weger had previously mentioned. Mr. Galloway indicated that the site they were referencing was located at Pleasant Valley and Chardon Roads and would not work for Verizon coverage. The MetroParks owns this property currently. Jim had reviewed this area and found it to be too far south and too close to other sites that would cause interference.

Jason Woodward added that he had received four phone calls from residents located within ½ mile of the Grange, offering to have the cell tower on their property, but our zoning code does not permit this.

Chris Galloway addressed another resident letter that asked about the I-90 area being a better location. Jim Svoboda answered that the I-90 area is too far north. Chris Galloway added that the elevation is probably 60’, 70’ or even 100’ lower at the Grange than the I-90 property. Mr. Woodward added that Ohio Dept. of Transportation has Wireless Edge agreements, not approved Verizon vendors. There were some questions at the State level. There were questions regarding having to bid it out. The State says that it may or may not be legal, so Verizon is backing off.

Jim Svoboda said that project management process must be followed and maximal permissible exposure at the ground level must be identified.

Law Director Lobe interrupted to indicate that “electromagnetic rays” are not for discussion and should not be considered by the Board when making any decisions.

Jim Svoboda said that non-ionized and ionized radiations were defined. Mr. Galloway added clarification about radiation and “sitting in front of an antenna.” Jim Svoboda compared it to a flashlight, with the power going outward, not downward.

Mr. Galloway made reference to 20.8 Vicinity Map. He said that TowerCo had erred in not including the water tower on Route 84 which has antennas, but is not on the FCC list. He will update this, but the tower is “maxed out” with no more carrier availability. The county would probably not approve any antenna to be added to the water tower either. Verizon is not on the water tower, but is somewhat near it already. That item can be updated on the map, if the City so desires. As far as hazards in the concerned area, the only item would be a diesel tank for the generator.

Item #21 – Mr. Galloway reviewed structural compliance. Mr. Woodward added that two engineering reports were submitted. He felt they were over-engineered with Reg G standard (current State of Ohio code) and higher than what Willoughby Hills currently requires (Reg F), 90mph, 3 second burst of wind and 40mph gust of wind have been addressed.

Item #22 – Mr. Galloway felt that this was more of a Building code issue, but will satisfy all items.

Item #23 – Mr. Galloway indicated that Items 1 and 2 have already been provided with the legal letter and the bond was provided on 3/3/17. Mr. Woodward added that TowerCo has applied a lot of due diligence and provided for an appropriate review. Time frame submittal miscommunication resulted in a due date mix-up of Thursday versus Friday.

TowerCo concluded their presentation for Preliminary Approval Request at 9:00 p.m.

City Engineer DiFranco thanked the applicant. He thought they provided helpful information and wished it had been provided at an earlier time. Instead, he had no response to his two letters, and had to review the project without drawings. He then proceeded to respond to each of the items that TowerCo had provided responses for:

Item #1 – Clarification of address – “nice to know” – was not aware of this previously.

Item#2 – Boundary survey – City is not responsible – does not contain full topographical and there are no boundary lines indicated. They were yet received.

Item #3 – Easement agreements – needs clarification – why are they needed? Mr. Woodward responded that leased property requires it by the 1996 Federal Communications Act.

Item #7 - Back-up power proposed – no label on the drawing as “generator” -- noise concerns – what type of generator is being used?

Item #9 – Gravel pavement – “There is only one note on the drawings – need to clarify...where do they start and stop?”

Item #11 – Trees – no samples, no tree types, no specifications, no colors submitted, as required by WH code.

Item #12 – Already discussed.

Item #14 – Fence material – “wood” is not an acceptable color.

Item #15 – 6’ shrubs – drawing shows 4’ shrubs, code requires 6’ shrubs...why not changed? (Woodward said they could accommodate a 6’ shrub).

Item #16 – Trees – Trees to be removed are to be identified per code. They are not. Mr. Woodward indicated that “no trees will be removed.” Jessie Styles added that a contractor would be given a scope of work if trees were to be removed (they would be properly identified) but he understands the City’s concerns. City Engineer DiFranco added, “It is a code requirement.”

Item #20 – Already discussed at length.

City Engineer DiFranco proceeded to read a formal statement where he reconfirmed his position to not support a preliminary approval based on:

- A) Chapter 1161 which requires a Conditional Use Permit. In addition, there was non-compliance to minimum standards outlined in 1161.06 and 1161.08. 1161.06I sets the buffer standard at 200’ between the wireless communication facility and the ROW and the proposed plan calls for a 140’ tower with 97’ buffer at Maple Grove Road and 132’ at River Road. An unforeseen emergency event could disrupt power in that area and block emergency response vehicles. Mr. DiFranco then compared First Energy response in an emergency event, where contact information is documented, but was lacking by TowerCo on their plan submission. Mr. Woodward indicated that TowerCo had provided a letter regarding failure point dated 3/3/17 (Item 6C) by Vertical Solutions. Mr. DiFranco indicated that a fall distance was not provided by Vertical Solutions, but rather they wrote “by stating a fall radius, implies that towers are designed to fall and this is not the case.” This is not acceptable.
- B) Failure to comply with landscape and fence color requirements and cell tower specifications as noted in 1161.06 and 1161.09.
- C) Failure to identify alternate site, per 1161.05.
- D) Failure to provide contact information/emergency contact information as provided in 1161.08.
- E) Regarding continuance – will not read at this time.



That concluded City Engineer Di Franco's report.

TowerCo's Reponse to the Board:

Mr. Woodward indicated that details on the tower were provided on the documents with color, etc. "Why is wood not a color?" Saber Industries design #17-4871JDSR4 dated 2/27/17 was submitted with this information. City Engineer DiFranco indicated that specifics need to be put on the drawing. Mr. Woodward responded that drawings were provided, with zoning drawings provided on 3/3/17 and a third set of drawings were submitted, having been modified three times. Mr. DiFranco pointed out deficiencies in the drawings provided (boundaries, generator, etc.) Mr. Galloway added that drawings are based on what they know at the time; for example, Verizon may change ground equipment, antennas, etc.

Mr. Woodward responded to Mr. DiFranco's remarks, comparing the First Energy responders and those being used by TowerCo. He called this a "character attack" and reassured the Board that much is outsourced, just as First Energy, and TowerCo uses equally the same vendors for emergencies. Mr. DiFranco asked that it be put on the variance application, along with the emergency contact information.

Law Director Lobe then asked the Board to address TowerCo:

Council Representative Hallum said that looking at 1161, there are seven items we need to look at to protect the City. He was also concerned about the impact of property values being reduced. The City Engineer's report is concerning to him, with many open issues. He agrees that the Grange is "park-like" and a tower may affect the enjoyment and use of that property.

There was applause from the audience at this point, following his remarks. Law Director Lobe was quick to interrupt, warning the Board against basing their decisions on any audience applause or remarks.

Vice Chairman Lillich indicated that his concerns were based on variances and safety. He was concerned about Verizon's footprint (size) and its impact on safety. Mr. Woodward responded that the "footprint" or "size" (50'X50') is TowerCo's request, not Verizon. Mr. Galloway then spoke briefly to Vice Chairman Lillich regarding the Master Plan (as he worked on it and as it related to protection of property values and residents) and Vice Chairman Lillich indicated that he still had concerns about property owner values and asked about a cell phone tower report as they relate to property values. Mr. Woodward spoke of the economic effect throughout the country, citing Hilton Head, South Carolina, where 22% of vacation clientele was lost because of strict codes preventing cell tower coverage. He also cited Dublin, Ohio, where restricted cell tower development has now resulted in them wanting stealth towers to get coverage in order to bring in people and businesses. He showed photos of a city with two cell towers, with Pulte

being the builder, building homes as close as 100' from the tower. Mr. Galloway stated that studies are often very dated, not current and may be based on opinion. Many homes may not be in view of a tower. He understands the emotional element, but insisted that proper coverage and safety is a valuable asset. Jesse Styles spoke about the number of cell towers one might have passed on their way to the meeting versus the feeling that you "just don't want it in your backyard." He felt that home values are not negatively affected by a cell tower in the area.

Mayor Weger felt that there was a big difference in comparing Pulte home building with cell towers and adding a cell tower on the Grange property. The difference being that people in the Pulte homes knew that it was there when they bought their property. The Grange area residents purchased first. He noted resident Keith Brandt's study, clearly showing that property values were decreased with cell towers. Mayor Weger asked TowerCo if they were still looking at Waite Hill as an alternate site.

Jason Woodward responded that they are looking at both sites – Waite Hill may be putting it on the ballot. They need both locations because Waite Hill is in the valley. He has concerns about pacemaker patients who require the internet for pacemaker maintenance and, as Police Chief Collins suggested, no signal for 911 on two occasions. This was documented at the initial meeting. Mr. Woodward said that there is a need for this project for coverage and public safety; technology for 5G brings up need; this is not a central service, this is the City's communications service.

Mayor Weger asked if they could guarantee that the tower will not fall. Mr. Woodward agreed that they cannot guarantee that, but provided design drawings that addressed those hazards. Mayor Weger said he was concerned last week with our existing towers, with the high winds, he witnessed them swaying. Mr. Woodward said that they are designed with flex to do that. While he cannot control an earthquake, hurricane or terrorism, he knows that the plans include generators on site with 8-hr. battery backup. Mayor Weger pointed to the reliability of a landline during a blackout, but cell phones would have no service. Mr. Woodward agreed, but said that the City should be responsible for providing communication. AT&T needs this site as well.

Mr. Woodward said that he had worked with Mr. Marsh, understands a lot of residents had signed the petition against the project, but the City has the responsibility to make sure that all residents have communication. Unfortunately, some of the proponents have not come forward for fear of retribution from neighbors and residents.

#### **MOTION:**

Mayor Weger made a motion, seconded by Vice Chairman Lillich to recess for 5 minutes before they proceeded to final comments.

VOTE: All AYES/No NAYS. (7-0). Motion Passes.

A five-minute recess was granted. Recess began at 9:50 p.m.

**MOTION:**

Mike Tyler made a motion, seconded by Vice Chairman Lillich, to resume the meeting and proceed to final comments.

VOTE: All AYES/No NAYS. (7-0). Motion Passes.

Meeting was resumed at 10:02 p.m.

**Closing Comments by TowerCo:**

Chris Galloway asked the Board to allow them to proceed. The process was started a year ago. They served to identify a definite need for the tower. Law Director Lobe and Building Commissioner Wyss had met with them to discuss both the Grange property and West Miller property. They satisfied Verizon's needs with co-location service and need, entered into the lease agreement which was unanimously passed by Council and signed by the Mayor and there was no change in the Grange site since that support and today. The City knew the threshold of what was required and still proceeded. What changed between then and now? All parties knew about the variance. Nothing has changed. TowerCo has provided the checklist and justification for Planning Commission to provide preliminary approval. There is always opposition to change. Proponents won't come forward. TowerCo is trying to solve a problem in our community. TowerCo has more than satisfied the requirements for preliminary conditional use.

Law Director advised there was no right for rebuttal by the Board and instructed to proceed with the vote. He instructed that each member should give their vote, stating that a "no" vote indicating that the member was not in favor of granting the preliminary conditional use approval, and indicating the reason why, if entering a "no" vote.

**MOTION:**

Vice Chairman Lillich made a motion, seconded by Mayor Weger, to grant TowerCo preliminary conditional use approval.

**VOTE:**

**Chairman Christopher Smith: NO.** Vote is based on 1161.01 – Item C – health, safety and welfare – The City Engineer's setback analysis and Item D (physical structure 50' above trees), which would impact open spaces. Item G outlines maintaining the integrity of the Board and its code and a 200' setback is not arbitrary.

**Vice Chairman John Lillich: NO.** Vote is based on maintaining the integrity of the zoning code. Too many exceptions would have to be granted to have this project proceed.

**Mayor Robert Weger: NO.** Vote is based on concerns for protecting property values, health, safety and welfare, minimizing effect on open spaces, and maintaining aesthetic appearance of the City.

**Council Representative Christopher Hallum: NO.** While it does not impact his Council district, as a Council member, he voted to have this project reviewed by the Planning Commission and relies on their expertise to ensure our codes are followed. He expressed concerns about property values, open park spaces, integrity of the Planning and Zoning Commission and too many variances in the Willoughby Hills codes.

**Jonathan Irvine: NO.** Vote is based on concern for Board's integrity and 200' setback variance.

**Michael Tyler: NO.** Vote is based on concerns for health, safety and welfare, as well as City Engineer's evaluation. We have set standards, and even the emergency contact is an essential element that was lacking in the plan submittal.

**Michael Kline: NO.** Vote is based on the City Engineer's report, as it relates to (Section A) property values, (Section C) health, safety and welfare, (Section D) adverse effect, and (Section G) integrity of the Board.

VOTE: 0 AYES/7 NAYS. (0-7); Motion Fails.  
TowerCo is not granted a Preliminary Conditional Use Permit.

**Public Portion:**

Chairman Chris Smith opened Public Portion at 10:27 p.m. The following individuals spoke:

- 1) Mr. Chris Sammon, 2367 River's Edge Drive, Willoughby Hills, Ohio 44094  
Mr. Sammon thanked the Board for upholding the standards that the City imposed on them.
- 2) Mr. Tom Marsh, 36520 Maple Grove Road, Willoughby Hills, OH 44094  
Mr. Marsh thanked everyone for their hard work.
- 3) Mr. Keith Brandt, 2376 River's Edge Drive, Willoughby Hills, OH 44094  
Mr. Brandt thanked the Commission and Council for reviewing all of the information provided to them. It was good to see they had their (the residents') best interest in mind when voting and encouraged by that when he is leaving the room tonight.

- 4) Mr. Jim Michalski, 38285 Dodd's Hill Drive, Willoughby Hills, OH 44094  
As a past member (for 7 years) of the Planning Commission, he wanted to go on record to say that he was never pressured to make a decision and always acted on his own accord. He was concerned that a document could be circulated that was not signed by the author. (John Lillich, a current member and 39 year resident, had never been pressured to vote a certain way either).
- 5) Frank Cihula, 35060 Dixon Road, Willoughby Hills, OH 44094  
Mr. Cihula indicated that he has been a BZA member for 42 years, 33 years as Chairman, and also wanted to go on record to say that he has never been pressured or even suggested by Mayor or any other official to make a decision one way or the other, but always acted on his own accord.

Public Portion was closed at 10:30 p.m.

**Unfinished Business:**

Council Representative Hallum thanked the Board volunteers and applauded them for their fine work.

Michael Tyler thanked Law Director Lobe for his fine work at tonight's meeting and throughout the Grange cell tower discussions.

**New Business:**

None

**Mayor's Report:**

None

**Council Representative's Report:**

None

**Building Commissioner's Report:**

None

**Chairman's Report:**

None

**Adjournment:**

The meeting was adjourned at 10:30 p.m. by Chairman Smith.

Respectfully Submitted:

Gloria Majesky, Clerk, Pro-Tem

3/27/17

March 27, 2017

Christopher Smith, Chairman

5/4/17

(Date)